

911 Wireless Board Meeting
MINUTES
March 23, 2000

Members Present:

Charles Archer, CoChair
Belinda Gurkins
David Keever
Dane Mastin (Sheriff)
Richard Taylor
Frank Thomason
Pamela Tope
Rick Webb, Chair

Staff Present:

Karen Atkins, ITS
Valerie Carter, ITS
Pat LaBarbera, ITS
Karen Long, ITS-Atty.
Scribe: Mary Best

Guest

John Buchanan, GTE Wireless, Atlanta
Perry Newson, NC Board of Ethics
Steve Skinner, BellSouth
Ken Takacs, ATT Wireless
Ron Whinury, GTE Wireless

Members Absent:

Carolyn Carter
Tom Leonard
Doug Matheson
Cindy Smith
Mike Watson

Welcome/Introductions/Comments:

Chair Rick Webb called the meeting to order at 3.08pm; stated for the record that a quorum of 7 was present. Chair Webb welcomed and thanked members and guests for coming; expressed that he looked forward to dining with them that evening. An introduction of guests followed—Ron Whinury of GTE wireless (Atlanta) program Implementation, Manager for wireless E-911 throughout the country; John Buchanan of GTE wireless (Atlanta) regulatory/compliance and dealing with PSAPs and State Boards across the country; Ken Takacs of ATT wireless (representing Cindy Smith) is the E-911 Manager for the South; Steve Skinner (representing Mike Watson) with BellSouth Cellular; and Perry Newson, Executive Director, North Carolina Board of Ethics. Chair Webb stated for the record that Mr. Skinner would be a non-voting member, but encouraged him to participate and be a part of the meeting.

Approval of Minutes:

Chair Webb asks for any changes/discussions of the minutes of February 25, 2000. **Member P. Tope** requested changes to the last paragraph on page three (3)...to change **recurring-fixes to recurring per subscriber basis** and **non-recurring per subscriber basis to non-recurring lump**

sum basis. Chair Webb called for a motion to approve the minutes with the noted changes. **A Motion by Member P. Tope to approve the minutes and 2nd by Member D. Keever-- was entertained, voted on and unanimously passed.**

Comments following motion: **Member D. Keever stated** that Mary Best had done an excellent job taking and transcribing the minutes at the last meeting...stated that they were very detailed. Chair Webb offered his thanks to Mary for the good job and moved on to the next item on the agenda.

Discussion of CMRS Provider Issues (Items 3 & 7 Combined) (Presented by Steve Skinner-BellSouth)

Chair Webb asked Steve Skinner to proceed with his presentation to the Board on the Report of Cost Recovery from other states. Mr. Skinner passed out handouts to the members and staff and stated that he wanted to start with what has generally been the decision throughout the Southeast as to what should be encompassed in 911 Cost Recovery procedures (some states have them and some don't). Examples given--Georgia doesn't-completely local county option; Alabama has county/state option. He included what other states had...explained that they were complex and not interesting and "he would be coming from what other states had done and typically worked pretty well". He proceeded to go over the items on the handouts that "put his reading" on what this Board's responsibilities are towards carrying out these procedures. He further explained that in some states the Boards did not have authority to issue procedures but in North Carolina the Board does have that authority and is required to do so.

Explanations of Responsibilities of the Board (Refer to your handouts)

Statutory Basis:

1. The Board's interim procedures require a sworn invoice...in order to exercise due diligence and review the paperwork the way that the Board wants...they need to have something more complete than the sworn invoice. "The procedures as written need to allow full recovery for CMRS providers." Explained that what he was presenting (made reference to bottom of page in handout) came directly from the North Carolina Statutes.
2. To make sure whatever costs are approved are commercially reasonable and related to providing Phase I (NC Statues states "complying with FCC orders).
3. North Carolina is not required to roll out the entire state (as in some states for example Florida and Tennessee); a county can ask for Phase I and carriers will comply. PSAPS start the process by requesting the service.
4. North Carolina Legislation states that there must be a certain amount of confidentiality of certain CMRS information (generally meant actual architecture and to protect CMRS customer count in each county).
5. Board should have fiscal responsibility including audits. (Are they sending in the money that they are billed for? Were costs presented related to Phase I? Can a CMRs document how it got the figures? (example-an invoice)

General Provisions:

1. Any type of procedures needed to the show statutory basis (example given most similar to Mississippi).
2. Whole process is triggered by PSAP; PSAP and CMRS carrier jointly agree on the solution. Generally this works well.
3. Review of carrier plans/costs by experts (people need to be technologically sophisticated).
4. North Carolina has the 125% rule...Board needs to re-look every carriers plan every 12,18, or 24 months to make sure costs are still appropriate.

At this point **Chair Webb asks** if there are any questions on the material that has already been covered. Question by K. Long regarding architectural plan to cover entire state...you allocate to the counties based on what? **Response by S. Skinner**..you don't really allocate to the counties. For BellSouth, they have 2 mobile switching stations in NC, and maybe 4 or 5 -911 selective routing tandems in this state. What Bell would do when a county came in and asked for service they would mount and install new types of Phase I trunks from their mobile switch to that tandem—they could then serve (at pretty low costs) all of the surrounding counties that were served by that tandem. They don't go to the counties for any money because the counties don't reimburse their costs—the State Board reimburses their costs. The whole trunk is charged upfront..if it is a very small county, their contracting company drives around and let other counties know that they are about to turn up the county and ask them to come on board (all facilities will be there and cost will drop down when they can get them all to sign on). Question by K. Long—does the CMR wait to do their marketing effort? Response by S. Skinner-- “no”.

S. Skinner directs everyone's attention to a map slide of NC indicating where service has been started. **Question by Chair Webb** as to the four (4) color representations. **Response:** In some areas there is no service and no customers (ex. Buncombe county—a not requested area BellSouth market served by BellSouth tandem but has never requested Phase I service). Once first costs (trunks) have been paid, it makes sense to bring everybody else up. He stated he thinks that's how most carriers in every state are doing it. **Question by Chair Webb**-what would be different in BellSouth's case? **Response by Mr. Takacs** (ATT wireless)..they don't have any non-recurring costs/upfront cost..they just have a flat per subscriber fee of 19.6 cents per subscriber nationwide. (similar to 3rd party) **Response by Mr. Whinury** (GTE wireless) they architect for the state; coverage in the state from switches to selective routers and based on subscriber base that would be served in the particular area identify the number of trunks that would be required and would prefer to bring up the entire state at one time..(get PSAP concurrence in hand and go ahead and bring them up as quickly as they can as one group rather than individually).

Question by K. Long..are they doing the same type statewide architecture and charging it different or are they using a different technology entirely? Response by S. Skinner (BellSouth) they're using a different type of technology..**K. Takacs**-when the information comes into the PSAPS, it all looks the same so it doesn't matter what type of end calculations that you use.

Question by K. Long..are there differences in costs? **Response by S. Skinner**-he is sure they are, but NC's fee was set at a rate that would cover the average cost. Some will be lower (larger carriers) and some higher (smaller carriers); about 30-32 cents allocated per subscriber per month in NC would be more than enough to cover costs.

Question by Chair Webb-What would be NC average cost? **Response by S. Skinner**-Gives an example in Mississippi, recurring, non-recurring and on going cost are about 12-13 cents per

subscriber/per month. **Question by Chair** regarding reasonable cost-is there some kind of fairness/reasonable way to measure if someone is totally out of line? **Response by S. Skinner**-They are calculating theirs on a national basis and with no one time cost. When they come in they will immediately request some non-recurring cost reimbursements. **Member R. Taylor** indicated that there would be huge differences between what BellSouth vs. ATT asked for. Member D. Keever stated that comparison costs (among carriers) would be hard to compare. **Question by Chair Webb**: If there is a major disparity if you are doing business in NC, where can you serve/compete for business and can you serve anywhere in the state? **Response by K. Takacs**-They started in a populated area (Charlotte) and branched out They have service in every county in the state/FCC regulated. **Response by S. Skinner**-they are all licensed on a county-by-county basis. You will see disparities -you go back and look-- are those really your cost? If they are that is what the State Board is set up to pay. **Question by Chair Webb** as to service being regulated but cost aren't. **Response by S. Skinner** refers back to procedures "NC CMRS carrier 911 cost recovery"--no profit built into it for carriers. They should be able to show (by invoice) what they were charged; that is the reason for the audits. The FCC is clear on cost recovery and the Board has a right to ask to see invoices.

Question by Member B. Gurkins-where does the 125% come in to the carriers? **Response S. Skinner**-The rules state that if a carrier has taken out everything they put in + 25% more, they get extra scrutiny. They need to get pre-approval before they can take that much out and the Board is not required to reimburse costs above 125% of what was put in unless they deem it legitimate; in that case they can. The larger carriers will probably leave money on the table to help the smaller ones. **Response by R. Whinury**-smaller carriers with switches in the state need to load same software to their switch but will need less trunks. The cost would be there (software and effort they need to put into it), the denominator is not as large if looked at on a strictly per scribe basis. **Chair Webb** states he understands and is comfortable with that analysis.

Question by K. Long regarding how to measure commercially reasonable cost. **Response by J. Buchanan/S. Skinner** things are there (ex. software different, if you buy lots of equipment) and engineering time; carriers putting in trunks where nobody has asked for service.

Question by Chair- how labor intensive has this been? **Response by S. Skinner**- It takes about an hour to four hours for first carrier to do a presentation to a subcommittee; after that it should not take long because the following presentations will have similar components. **Question by Chair**-what was the difference between Tennessee and Florida? **Response by S. Skinner**-Tennessee has a very powerful State Board—manages wireless 911 and wire line; some counties refused to put in wire line 911-the Board is requiring counties to comply/they tell them when they are ready for Phase I. They have Phase I in every corner of the state. **Question by Chair**-what state leads the country in implementing this? **Response by S. Skinner**-as far as BellSouth is concerned. NC is close.they have more service in a greater percentage. Indiana was the first; Georgia is far behind.

At this juncture **S. Skinner** returned to going over the handout of the procedures. He briefly reads through each starting with the prologue (where the Board gets their authority).

1. Carriers have to submit sworn invoices-Board will review and approve-in order for that to happen:
 - (a) PSAP start the whole procedure. Call carrier and request 911-carrier will write plan to meet the needs of the PSAP and show them how they will provide 911.

- (b) When they show it to the PSAP-there must be some joint agreement; that 1 PSAP is signed off on-at that point-come to the Board and ask to meet with the subcommittee and have the technical experts look at the plan and the associated costs and make a recommendation. (Takes about an hour). Will see plan for entire state but money won't start flowing until all tandems are turned up.

Question by Chair Webb-Have they agreed to a subcommittee, for review?

Response by S. Skinner-"no". **Chair Webb** wanted it noted they might want to do it as a Board the first time around to understand. **Comments by member R. Taylor**-when S. Skinner spoke earlier he stated they didn't want any competitor on the committee, so whom would they get for technical experts? **Response by S. Skinner**- suggests people from the PSAPS. Chair Webb states he would like to hold off on the review process (put it to the side and come back to it later). **S. Skinner** states whoever/whatever entity reviews the plan would have to decide if it is a good plan or not.

- (c) Any subsequent counties added; would not have to come before the Board-just send a letter describing what's happening/consistency with existing plan.

Question by Chair Webb-Is he talking about some method of status reporting by using the letter? **Response by S. Skinner**-"yes". **Question by member P.**

Tope-Aren't they presenting something that is already out there—what is there to approve? **Response by S. Skinner**-They are in the same position..they took a risk --there is no guarantee that the Board will find what a carrier did as commercially reasonable.

Question by member P. Tope-Why don't the carriers go straight to submitting invoices rather than a plan approval-to straight to actual expenses. **Response by S. Skinner**-If BellSouth did that now-nobody would understand; they prefer to come in with a plan so people can see and understand.

Comments-R. Whinury-You need to have a plan before you roll-out even though you may not have to present it to the NC Board (other states may require it, to answer PSAP questions etc.) **Comments-J. Buchanan**-Thinks in this state in particular should know what the thinking was that went into the plan that they implemented..they are entitled to know that. They could send invoices and argue later about them being paid-but they'd rather have everything out on the table.

Question by Chair Webb-How many people are coming in now starting from scratch vs. how many have already started? **Response by S. Skinner**- in NC about 1 dozen who will come after the big ones that have not turned up anything.

Comments by R. Whinury, R. Taylor and F. Thomason respectfully-

Reference is made to the list of carriers; Taylor and Thomason have about a half dozen each. **Comments Chair**-Appears that all of those have plans and they are setting a precedent for others that they have a plan-warns of moving to fast without a plan. **Comments P. Tope**-states she doesn't disagree—when asked

by Chair if she had a plan.. **Member Tope** answered "yes". **Member F.**

Thomason stated he thought it was a good idea for the Board to have the approval process. Chair Webb polls the carriers present to see how many had plans; Alltel-yes, GTE, BS, AT&T, Sprint-Sprint, US cellular. **Question by P.**

Tope-Clarify who is actually reviewing plans-subcommittee? **Response by Chair**

Webb-He put that and status reporting to the side; can discuss now. Board may want a panel from PSAP's to help review and buy in by association. Example given by **S. Skinner**-if you had a stack of invoices to review you would want

somebody besides your competitor reviewing them. **Question by K. Long**-In

other jurisdictions, do you have to get the plan approved first? **Response by S. Skinner-** Plans only have to be approved prior to being reimbursed. **Comments by K. Long-**She sees it as getting the plan approved (they buy into it); which may or may not be the appropriate one-the Statute of NC only allows this Board to look at costs not at invoices or anything.it is the carrier's choice not the State. **Response by R. Whinury-**Thinks they go hand-in-hand. Once you have the plan it translates into costs—had to put a plan together in order to come up with cost. K. Long responds that she wanted to be sure that the providers were not requesting the Board approve the plan. J. Buchanan comments-the PSAPS were involved from the beginning so it (plan) was viable before being shown to the Board.

Chair Webb wanted to come back to item 2; the language of the initial cost recovery plan. Plan could be architecture, equipment specs. **Member D. Keever comments** that it sounds like 2 different ways of reimbursing (1) for actual equipment (2) fee per subscriber (methodology of reason) and recouping the costs which may be less or higher. His company has elected to go with actual cost.

Member R. Taylor questions clarity on whether carriers need to have a plan-**K. Long responds** “no”, but they can write an amendment that says they do. **Member R. Taylor** inquires if they can write a rule that says they do, or does the Board want to do that? **K. Long responds** with “that’s the suggestion of the providers. The Board has the authority to request a plan up front—they don’t have the authority to bless a plan; they need to understand the plan before giving a response. The Board may have the duty to make sure the plan is one that will last (go into Phase II) to avoid wasting money in Phase I”. **CoChair Archer stated** that invoices are useless unless you understand (the plan) what they are for (if they are commercially reasonable costs). S. Skinner indicated that the invoices are related to this place in the plan. **Comments by B.Gurkins** that Member D. Keever had just stated that his company was submitting invoices. **Member D. Keever stated** they are submitting actual cost for implementation by the county that requested it. **K. Long asked** Member Keever if they had a plan.. could he live with the suggested procedure? **Member Keever states**” the only difference he sees right ...is the presentation of a plan before the Board to be approved (as S. Skinner says). If it’s approved and being used similarly in the next county that it would be rubber-stamped”. They would not want to keep coming back before the Board.”

CoChair Archer gives an analogy of an architectural drawing for a bank. The bank locates all over the state. It goes to the Dept. of Insurance for approval one time for architect seal and specs; once it’s approved, it’s rubber-stamped. Paperwork goes into different counties. Member Keever indicates the key word is “**commercially reasonable cost**”—most all of their rates are tariff; they have very little control over fees; the only variance is with software upgrades/requirements for individual switches. The carriers are pretty much at the mercy of the vendors and their buying power with the percentage they get of cost. **CoChair Archer** points out that the providers will design the most cost effective plan possible because it affects the bottom line. S. Skinner indicates that” it does not affect the bottom line—it is strictly cost recovery”.

CoChair Archer moves the conversation forward to 2a.

2. (a) **S. Skinner states** this is just a list of potential costs; might include mileage, translations, engineering time etc. if it is Phase I-911 related it will be included in the list. The list is the same in Indiana, Mississippi, Kentucky and other places.

(b) Deferred on sub-committee; but normally the sub-committee would make recommendation; entire Board would look at the part/all of the plan and either approve or reject it; expresses that if the Board chooses to reject a carrier's plan, a written explanation would be in reasonable. Question by CoChair Archer-are you saying the Board is approving the plan? S. Skinner responds by stating the part he is referring to is the cost recovery portion of the plan only.

5. Once a statewide look is approved-the carriers would start sending invoices to the Board.

Comments by Member B. Gurkins-Out of the group you will have certain non-recurring costs and monthly costs, do you know which ones those are per company? **Response** "Yes" you'll know. **B. Gurkins**-on AT&T's behalf -He's rolling everything into monthly because he is not going to do a non-recurring, is that right? **Response K. Takacs** "Yes" at one time they did but, to make it more attractive and easier for the PSAPS, they got rid of non-recurring costs. **B. Gurkins**-It also depends on his third party database provider and how much they are actually passing on to him as far as costs are concerned, right? **Response by S. Skinner** "yes." Gives example in Texas charge on per customer basis-absolute flow thru-bill comes to carrier-carrier pays it-and it's passed on. **B. Gurkins Question**-So you can break down recurring and non-recurring costs. **Response "yes"**. Plan needs to allow for recurring, lump sum or combination of basis. **Comment by K. Takacs**-This will be updated monthly (customers will be added every month).

Comments by Member P. Tope-on #5 this is presuming that every month the carrier presents an actual invoice that matches up to its plan; has there not been an attempt taking the fact that allows for the plan to be laid out and then the cost for that plan to be laid out and a recovery system comes into play to the carrier that once a year there is a true up audit by a third party auditor/accounting firm that comes in and says they have read the legislature and understand the statutes; we see what's allowed we've looked at what this carrier has presented; we've looked at the invoices and we agree that XXXX dollars is true/accurate according to-compare against what was actually paid out and true that up. Because if you asked her to produce her phone bill for the phone on her desk she couldn't do it. She certainly wouldn't be able to do it on a monthly basis. It is not quite that simple-suggesting that maybe there is more than one way to approach that as part of each carrier's plan-this is how our expenses are going to be produced and we will pay for this audit -we expect to be reimbursed thru the 911 fund but we will have this audit done -is this part of this plan or are we deciding as a Board that the way they want invoices presented is the same for everybody?

Comments-J. Buchanan-the law says sworn invoices-(there are different kinds of sworn invoices) S. Skinner gives example of sworn invoice (calculating engineering time).

6. Reviewed before-Board has a right to review plan; but they can leave it out if they like.

7. Revisit with a letter or visit to the Board if changes occur (ex. Engineering rates) another example by R. Whinury-switch software upgrades (1 time charge).

Comments by Chair Webb-They are going to have to address such items in more procedures—would need something more definitive. Inquires how often do things like that happen (changes to plans). **Response** “not often” **S. Skinner, R. Whinury, J. Buchanan**. **Question by Chair**-Could the Board be caught in a situation to provide funds they don’t have? **Response by P. LaBarbera** - You can delay the reimbursement and pay interest. They put a cap of 3 years on it.

8. Sub-committee and confidentially. **K. Long references** Public Records Act.. Trade secrets are confidential; staff needs internal procedures to make sure they are locked up and not available. G. S. 62-A30 doesn’t make everything confidential; she can see culpability potential there, particularly for cost recovery on a per customer basis. **S. Skinner states** the most sensitive materials that he is aware of is customer files. Carriers will have to be careful and not stamp everything confidential; a lot will not be. It was indicated that it has not been a problem in other states yet (**K. Takacs**).

Comments Chair Webb-“If they could go to the Attorney General and get under the submissions of cost recovery these types of items are-- what items are confidential, could you frame it in that way? And those items should be stamped confidential. **K. Long** –Someone can assert confidential and normally a state agency will abide by that. Then someone sues the state agency to get the information, which is painful but sometimes necessary and the courts will decide. Most of their recent cases are getting narrower-it’s how the court sees it.

S. Skinner goes over some types of forms related to cost recovery actions and shows examples of how the process works. Chair Webb goes back to the plan-law says don’t have to give a plan just pay us-if they go with the plan (may have different invoice mechanism). Will everybody be willing to come in with a plan? P. Tope-If they don’t and they submit an invoice and the Board doesn’t know what it’s for they can request information/explanation from carrier. If they don’t comply, they don’t get paid. B. Gurkins replies “that meets the test of commercially reasonable”. Comments by Member D. Kever-If you have multiple carriers in the same county, you should be able to see if there are similarities in bills (ex, RTP). Chair Webb suggests putting in a provision (after about 6 months) pull a rural and urban county and do some comparison analysis from a statistical standpoint. To say you have done due diligence in that regard.

Member D. Kever wanted a clarification of the term “sworn invoice”. **Chair Webb**-it’s attested. **Member D. Kever**.. That was his point- if there are recurring costs the first time you saw all these invoices, and if billing next month is the same they would not have to send in copies of those bills each month unless they changed. **P. LaBarbera**-“Unless you can say this is what you attest to, something like the sample invoice”. (Ex. By S. Skinner of his engineers-they don’t invoice him but he does pay them—he would like to be able to put that on his forms. There is no invoice from an outside party but he would like to attest to the fact that they really did pay). **P. Tope explains** invoices and true up. **Comments by J. Buchanan explain** in the beginning they didn’t know what costs were going to be. In Indiana they accepted the fair value (what they told them it was going to cost)— at the end of a period of time, go back and look at it-by that time things will have been turned up for service and you will know exactly what you have spent. (Most states have adopted that variance). **K. Long responds** there is no provision for estimates in the Statutes-plain language means, “you’ve spent it—here is your bill”. **Comment by Chair Webb**-What you are saying is the first kickoff invoice could be heavily frontloaded with non-recurring costs and an estimate of recurring costs, which will be annualized over 12 months. Would have to be true up separate and apart-would they not? **Response J. Buchanan**-State of Alabama has wrestled with this type of reconciliation question. They hired an outside accountant-who proposed that they

contract with external auditors. They provide the auditors a list of all of the charges in the state of Alabama which they say meet the criteria for cost recovery. The accounting firm then judges those cost against what the rules of the Board suggest are legitimate reimbursement costs. Holds them up and issue an opinion (part of attestation rules of accounting). That these costs are legitimate 911 costs for the state of Alabama for the period covering....at that point you match up what they have paid the carrier and the difference is reconciled.

Chair Webb states he would rather have a letter of opinion at the end of the year. **Member R. Taylor and CoChair Archer indicated** they liked the idea of yearly audits. **CoChair Archer states** the Board is not experts at this. They needed to bring in different expertise, as a Board should have with various perspectives through the entire process (the audit) You have a professional, certified in that particular field to give a professional opinion..they are licensed to do that.

Comment by Sheriff Dane Mastin-he has a problem with the “sworn invoice” statement just like the attorney. He doesn’t want to put the providers in the position of an untruthful affidavit on an estimated invoice. **Chair Webb** asks Atty. K. Long what she thinks—her concerns would be an opinion letter and at the end an extra amount that is twice as large as what was asked for from the fund and give up the gap money; that would make it hard for the Board to plan and would not be fair to other providers who are taking out of the fund; doesn’t provide a lot of incentive to be efficient; you don’t want someone who sends in small bills during the year and then comes in with this huge amount and want to true up because they based it on an estimate that was not done carefully. **S. Skinner explains** the Board’s options (1) Board can reject estimate (2) carriers have an obligation to present an accurate estimate-and states if a carrier is off by one-half they ought to be stiffed. A Brief discussion ensued between Chair Webb and Member P. Tope regarding what happens during the audit (what they will test for). **Member D. Mastin** asked if a policy could be established that stated that the true up had to be in favor of the Board. **J. Buchanan explained** how the accounting firm handled their audit.

Member F. Thomason explains how his company handles their true up. Says he is billed once a year for 911 service and once a year in February BellSouth does a true up based on his facility (BellSouth internal audit); **Member B. Gurkins indicates** Sprint has a yearly true up on a contractual basis (of access lines).

Comment R. Whinury in response to question by Chair Webb about upfront loading. When they put together a plan for the state, it is their intent to start as quickly as PSAPs are ready/as quickly as they can start. They don’t want a project to go out over a year if it could be done in less time. So when they look at their front-end costs—they have to pay the software cost when loading to the switch whether if for one PSAP or more than one. They consider non-recurring costs upfront; monthly recurring costs as they bring up service (per subscriber basis). **K. Long returns** to sworn invoice --how can you have one for something that has not been invoiced? **Response R. Whinury**-they know what the costs are and what they are going to be.

CoChair Archer called to adjourn the meeting at 5:30 pm until 9am Friday morning.